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UNCLAS SECTION 01 OF 02 LILONGWE 000512

SIPDIS

SENSITIVE
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STATE FOR AF/S
STATE FOR INR/AA RITA BYRNES
PRETORIA FOR ROBERT POPE

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TAGS: [PGOV](#) [KDEM](#) [MI](#)
SUBJECT: COURT INJUNCTION PUTS BRAKES ON FLOOR-CROSSING
PROVISION--FOR NOW

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11. (SBU) Summary: In an electric atmosphere charged with political tension, Parliament resumed its annual budget session on June 29 with Malawi's floor-crossing provision at the top of the agenda. In an announcement that caught the opposition off-guard, the Speaker of Parliament opened the session by stating that he had been served with a High Court injunction restricting him from implementing the controversial provision prohibiting 'crossing the floor' (reftel). Despite complaints from the opposition, the House moved on to pass a continuing resolution authorizing spending for the first month of the 2007/2008 financial year, through July 31. Finance Minister Goodall Gondwe also presented the 2007/08 budget proposal, kicking off the month-long process of passing the next financial year's annual budget. But despite the momentary focus on budgetary matters, the opposition now plans to push to suspend parliamentary proceedings until the Speaker is able to act on Section 65. Once implemented by the Speaker, the floor-crossing prohibition could lead to around forty government MPs losing their seats in Parliament. End Summary.

12. (SBU) At the resumption of the budget session on June 29, after the month-long period of mourning following the death of First Lady Ethel Mutharika, the opposition had expected Speaker of Parliament Louis Chimango to announce his plans for implementing the constitution's provision prohibiting "crossing the floor" in Parliament. The provision, which was upheld by the Supreme Court in a ruling on June 15, 2007 (reftel), empowers the Speaker to declare vacant the seats of around forty government MPs who switched parties after the 2004 general elections. However, Chimango announced that those MPs who would potentially be affected had obtained an injunction preventing the Speaker from taking any action concerning Section 65. The government MP who spearheaded the effort told PolOff he thought it would take up to three weeks for lawyers representing the Speaker to vacate the injunction.

13. (SBU) After his announcement, the Speaker quickly pushed the House towards discussion of the continuing resolution required to keep government afloat after the end of the 2006/07 financial year on June 30. Finance Minister Gondwe proposed originally that the House pass a \$32 million

four-month continuing resolution, but the opposition insisted on a one-month \$8 million resolution. This should position the opposition to be able to put pressure on the government if a full budget is not passed by July 31, as many observers expect. The amended resolution was then easily passed by the House.

¶4. (SBU) Gondwe also presented his annual budget statement on the 29th, outlining the government's plans to spur economic development by encouraging domestic investment and cutting inflation down from 7.5 to 5 percent. The budget proposal also included a number of controversial details, including a 10-fold increase in the wages given to paramount chiefs (from \$35 a month to \$357 a month) and a lower-than-expected cut in income taxes on low-paid wage earners. Opposition leaders will now be given an opportunity to comment on the budget proposal before Parliament goes into general debate on the budget.

¶5. (SBU) Comment: This sitting of Parliament is particularly volatile due to the recent court ruling on Section 65, and the uncertainty it has created. While the Supreme Court's ruling is fairly clearly laid out, it leaves a number of issues up in the air. For example, the court's ruling did not address whether MPs who were elected under the sponsorship a party which was then dissolved should lose their seats. The Court also failed to address a clause of the law which states that MPs who join political organizations outside of parliament put their seats in jeopardy. Both the government and opposition have used these vagaries to claim that all of their political opponents have lost their seats in parliament, including a particularly far-fetched government claim that the Speaker of Parliament has lost his seat because of his involvement in the SADC Parliamentary Forum, which they say is a "political organization". While these interpretations of the

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floor-crossing section would surely not hold up in court, having them referred to the courts is precisely the aim of the government, which hopes to delay any implementation of the section as long as possible.

¶6. (SBU) For its part, the opposition is intent on the Speaker moving quickly, with the expectation that the loss of forty government MPs would give the opposition parties an overwhelming two-thirds majority in parliament, thus empowering the combined opposition to exercise unfettered legislative power. This could include, as was discussed in late 2005, impeaching President Mutharika and amending the constitution to enable opposition leaders to head the executive branch without benefit of elections. However, the most likely outcome is still a long, protracted legal battle over which MPs will lose their seats, with many observers expecting the matter to again have to be put before the Supreme Court for resolution. End Comment.

EASTHAM